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10/566,533

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EXAMINER

MCCLELLAND, KIMBERLY KEIL

ART UNIT

PAPER NUMBER

1791

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---|---------------------------------------|--|
| Office Action Summary | Application No. 10/566,533 | Applicant(s) MORIURA ET AL. | |
| | Examiner KIMBERLY K. MCCLELLAND | Art Unit 1791 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,15,17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,15,17 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>04/26/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitation of a roller face in "transfer-contact" appears to be new matter. Clarification is required.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what is meant by the term "transfer-contact" in claim 22. It is unclear how "transfer-contact" distinguished under normal contact. The specification does not recite this feature. It is unclear what feature is being claimed. Clarification is required.

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Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, 5, 17, 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,994,053 to Lang in view of U.S. Patent No. 4,851,069 to Packard et al.

7. With respect to claim 1, Lang discloses a method of forming a composite article device, including shifting the base sheet (12) being held on a receiving and transferring roller face (190); supplying powder particles to a concave groove of the temporary receiving roller face (14) to form the powder particle layer; transferring the powder particle layer (84) onto the base sheet while shifting the powder particle layer held on a temporary receiving roller face (14); and bonding the base sheet (12), the powder particle layer (84) and the covering sheet (20/170) into an integral form, sheet while shifting the covering sheet in a held state on a contact-bond fixing roller face (See Figures 1, 5, 13, and 14). Lang does not specifically the powder particle layer is shifted at a shifting speed that is less than respective speeds of the base sheet and the covering sheet.

8. Packard et al. discloses a process of making absorbent laminates, including it is known in the art that the deposition speed of the absorbent particles is a result effective

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variable, which controls the amount of powdered absorbent particles deposited on the substrate (column 8, lines 14-24). It would have been obvious to one of ordinary skill in the art to use a slower powdered particle feed rate as compared to the base sheet and cover sheet speeds as taught by Packard et al. in the method of Lang. The motivation would have been to reduce the amount of absorbent particle applied in the absorbent laminate.

9. As to claim 2, Lang discloses the process for transferring the powder particle layer (84) onto the base sheet (12), includes shifting the powder particle layer being shifted in the same direction as the base sheet (See Figures 1 and 5).

10. As to claim 5, Lang discloses the powder particle layer is constituted by an absorbent resin particle layer (column 2, lines 45-47).

11. As to claim 17, Lang discloses the process for transferring the powder particle layer onto the base sheet and the process for bonding the covering sheet are carried out on the receiving and transferring roller face (14; See Figures 1 and 5).

12. As to claim 19, Lang discloses the process for transferring the powder particle layer onto the base sheet includes sealing an opening of the concave groove with a guide member (i.e. wiper blade) such that the resin particle layer is enclosed inside the concave groove (See Figures 1 and 5).

13. As to claim 20, Lang discloses a method of forming a composite article device, including shifting the base sheet (12) being held on a receiving and transferring roller face (190); supplying powder particles to a concave groove of the temporary receiving roller face (14) to form the powder particle layer; transferring the powder particle layer

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(84) onto the base sheet while shifting the powder particle layer held on a temporary receiving roller face (14); and bonding the base sheet (12), the powder particle layer (84) and the covering sheet (20/170) into an integral form, sheet while shifting the covering sheet in a held state on a contact-bond fixing roller face (See Figures 1, 5, 13, and 14). Lang does not specifically disclose a surface peripheral velocity of the temporary receiving roller being less than respective peripheral velocities of the contact-bond fixing roller and the receiving and transferring roller.

14. Packard et al. discloses a process of making absorbent laminates, including it is known in the art that the peripheral roller velocity of a deposition roller is a result effective variable, which controls the amount of powdered absorbent particles deposited on the substrate (column 8, lines 14-24). It would have been obvious to one of ordinary skill in the art to use a slower powdered particle feed rate as compared to the base sheet and cover sheet speeds as taught by Packard et al. in the method of Lang. The motivation would have been to reduce the amount of absorbent particle applied in the absorbent laminate.

15. As to claim 21, Lang discloses the temporary receiving roller (14) has a generally circular side profile (See Figure 1).

16. As to claim 22, Lang discloses the temporary receiving roller (14) is in transfer-contact with the base sheet (see Figure 1).

17. Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,994,053 to Lang in view of U.S. Patent No. 4,851,069 to Packard et

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al. as applied to claims 1-2, 5, 17, and 19-22 above, and further in view of U.S. Patent No. 5,925,439 to Haubach.

18. With respect to claim 4, Lang does not specifically disclose the process for transferring the powder particle layer onto the base sheet and the process for bonding the covering sheet are carried out on a same roller face.

19. Haubach discloses a method of forming an absorbent product, including the process for transferring the powder particle layer onto the base sheet and the process for bonding the covering sheet are carried out on a same roller face (12/ See Figure 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the same roller face arrangement taught by Haubach with the method of Lang. The motivation would have been to ensure accurate alignment of the powder particles between the base sheet and the covering sheet.

20. As to claim 15, Lang does not specifically disclose the sheet-shaped body manufactured by the manufacturing method according to claim 5 is sandwiched between a liquid- permeable top sheet and a liquid- impermeable back sheet to be bonded into an integral form so that the disposable absorbent article is produced.

21. Haubach discloses a method of forming an absorbent product, including the sheet-shaped body manufactured by the manufacturing method according to claim 5 (6/8/9) is sandwiched between a liquid- permeable top sheet (3/4) and a liquid- impermeable back sheet (2) to be bonded into an integral form so that the disposable absorbent article is produced (see Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the article

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construction method taught by Haubach with the sheet producing method of Lang. The motivation would have been to effectively produce a wearable absorbent article capable of absorbing liquid from a permeable surface and preventing leakage on the impermeable surface.

Response to Arguments

22. Applicant's arguments with respect to claims 1-2, 4-5, 15, 17, and 19-22 have been considered but are moot in view of the new ground(s) of rejection. Applicant's remaining pertinent arguments are addressed below:

23. With respect to applicant's arguments regarding the obviousness rejections over Haubach in view of various secondary references, examiner agrees. Those rejections have been withdrawn.

24. With respect to applicant's argument that the rotary brush of Packard is not equivalent to a transfer roller, examiner disagrees. Both rollers serve to "gate a rate of flow of particles", and therefore serve identical purposes. Consequently, altering the rotation of both the brush of Packard and the roller of Lang would each control the amount of particle discharged onto a base sheet, affecting the respective shifting velocities in each scenario. Therefore, the combination of the decreased speed taught by Packard is found to be applicable and desirable in the method of Lang.

25. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

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are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

26. Consequently, applicant's arguments are not persuasive, and the rejections of claims 1-2, 4-5, 15, 17, and 19 and new claims 20-22 under 35 U.S.C. 103 (a) over Lang in view of various secondary references is maintained.

Conclusion

27. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIMBERLY K. MCCLELLAND whose telephone number

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is (571)272-2372. The examiner can normally be reached on 8:00 a.m.-5 p.m. Mon-Thr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip C. Tucker can be reached on (571)272-1095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kimberly K McClelland/
Examiner, Art Unit 1791

KKM

/Philip C Tucker/
Supervisory Patent Examiner, Art Unit 1791